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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,038	06/30/2003	Max Fudim	P-5756-US	8272
49444 7590 09/28/2007 PEARL COHEN ZEDEK LATZER, LLP 1500 BROADWAY, 12TH FLOOR NEW YORK, NY 10036			EXAMINER TIEU, BINH KIEN	
			ART UNIT 2614	PAPER NUMBER
			MAIL DATE 09/28/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/608,038	Applicant(s) FUDIM ET AL	
	Examiner /BINH K. TIEU/	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 8-14 and 18-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Elzein (US. Pat. #: 6,259,917).

Regarding claim 1, Elzein teaches a method comprising ordering channels to be scanned (i.e., channels being arranged to be scanned from most often utilized to least often utilized or from least often utilized to most often utilized) by a station based on an associated history of said station (col.5, lines 38-50; col.5, line 62 through col.6, line 8).

Regarding claims 2-4, also note channels data in figure 7A and col.5, lines 35-50.

Regarding claims 8-10, note col.3, line 52 through col.4, line 56.

Regarding claim 11, note col.7, lines 32-67.

Regarding claim 12, Elzein teaches a device comprising a controller to scan channels in an order determined by an associated history of a station (col.5, lines 38-50; col.5, line 62 through col.6, line 8).

Regarding claims 13-14, also note channels data in figure 7A stored a memory of the mobile terminal and col.5, lines 35-50.

Regarding claims 18-22, note col.3, line 52 through col.4, line 56.

Regarding claim 23, Elzein teaches an article comprising a storage medium, having stored thereon instructions, that when executed, result in:

arranging channels in a sequence for scanning by a station based on an associative history of said station (col.5, lines 38-50; col.5, line 62 through col.6, line 8).

Regarding claim 24, also note channels data in figure 7A stored a memory of the mobile terminal and col.5, lines 35-50.

Regarding claim 25, note col.7, lines 32-67.

Regarding claim 26, Elzein teaches a device comprising:

a dipole antenna (see mobile phone 18 in figure 2), and

a controller to scan channels in an order determined by an associated history of a station (col.5, lines 38-50; col.5, line 62 through col.6, line 8).

Regarding claims 27-28, also note channels data in figure 7A stored a memory of the mobile terminal and col.5, lines 35-50.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 5 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elzein (US. Pat. #: 6,259,917) in view of Shi (US. Pat. #: 6,807,163).

Regarding claims 5 and 16, Elzein teaches all subject matters as claimed above, except for ordering the scanned channels based on the transmission quality, etc. However, Shi teaches a mobile phone having a channel history database stored in a memory. The database contains information about channels available in the system, including base station signal strength, interference levels, channel quality, etc. (col.5, lines 53-62).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of channel parameters related to scanned channels to be stored in the memory of the mobile phone, such as transmission quality, or other related channel parameters, etc., as taught by Shi, into view Elzein in order to determine an available channel associated with an access point.

5. Claims 6-7, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elzein (US. Pat. #: 6,259,917) in view of Balogh (Pub. No.: US 2001/0024953).

Regarding claims 6-7, 15 and 17, Elzein teaches all subject matters as claimed above, except for ordering the scanned channels based on the transmission rate, etc. However, Balogh teaches a mobile phone having a channel setting database stored in a memory. The channel setting comprises information about the possible data rates of channels operable in different networks (see paragraphs [0027]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of channel parameters related to scanned channels to be stored in the memory of the mobile phone, such as transmission rates, or other related channel parameters, etc., as taught by Balogh, into view Elzein in order to determine an available channel associated with an access point.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Anderson et al. (US. Pat. #: 6,778,827) also teaches a history list of scanned channels stored in a memory at the wireless terminal. The stored channels, each one is orderly scanned until the wireless terminal the selected channel is identified and the wireless terminal enters the camping state with the selected channel.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh K. Tieu whose telephone number is (571) 272-7510 and E-mail address: BINH.TIEU@USPTO.GOV.

Art Unit: 2614

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Curtis Kuntz, can be reached on (571) 272-7499 and **IF PAPER HAS BEEN MISSED FROM THIS OFFICIAL ACTION PACKAGE, PLEASE CALL CUSTOMER SERVICE FOR THE SUBSTITUTIONS OR COPIES.**

Any response to this action should be mailed to:

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In formation regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the FAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/BINH K. TIEU/
Primary Examiner
Technology Division 2614

Date: September 2007